

CITY OF BELMONT
PLANNING COMMISSION

ACTION MINUTES

WEDNESDAY, NOVEMBER 7, 2007, 7:00 PM

Chair Parsons called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Parsons, Frautschi, Horton, Mayer, Mercer, Wozniak
Commissioners Absent: McKenzie

Staff Present: Community Development Director de Melo (CDD), Assistant Planner Gill (AP), Chief Building Official Nolfi (CBO), City Attorney Zafferano (CA), Recording Secretary Flores (RS)

Chair Parsons congratulated Commissioner Wozniak and David Bernstein on their recent election to City Council.

By way of an alert to residents of the Hallmark area, he made note of reports that a mountain lion had been sighted that day in their neighborhood.

2. AGENDA AMENDMENTS - None

3. COMMUNITY FORUM (Public Comments) - None

4. CONSENT CALENDAR

4A. MINUTES OF OCTOBER 2, 2007

MOTION: By Commissioner Horton, seconded by Commissioner Mayer, to accept the Minutes of October 2, 2007.

Ayes: Horton, Mayer, Mercer, Wozniak, Frautschi
Noes: None
Abstain: Parsons
Absent: McKenzie

Motion passed 5/0/1/1

5. NEW BUSINESS

5A. Request for Modification to Approved Plans – 2801 San Ardo Way

AP Gill summarized the staff memorandum and answered questions from the Commission.

Commissioner Mercer stated that she felt the garage door had been downgraded and would like to have it conform to what they had originally seen. She asked that a fully revised copy of the new footings and elevations be on file for the future.

Vice Chair Frautschi asked if the applicant was expected to maintain the easement on the left side of the house. AP Gill responded that it is City property that is like a right-of-way and the applicant is responsible for maintaining that area.

Commissioner Mayer suggested that a railing be put along the driveway.

Chair Parsons concurred that for safety purposes the railing ought to be extended. He stated that he assumed that an opening in the back where animals could go would be closed up, and that when the stone is removed they clean up and paint the area where the foundation is exposed.

Responding to questions from the Commission, John Desincto, the builder's son, stated that knobs and decorative hinges will be added to the garage door and it will be painted to blend in with the rest of the house, the raw iron railing will be painted black, and that they are willing to fill in the crawl space.

MOTION: By Vice Chair Frautschi, seconded by Commissioner Mayer, to adopt a Resolution approving a request for modification to the approved plans for 2801 San Ardo Way (Appl. No. 2003-0002), with the added conditions requiring cleanup of the foundation area of the house to get rid of the exposed tar paper and concrete, extension of the railing on the right side of the driveway far enough to achieve safety, and the placement on file of footing and foundation plans and elevations.

Ayes: Frautschi, Mayer, Horton, Mercer, Wozniak, Parsons

Absent: McKenzie

Motion passed 6/0/1

Chair Parsons stated that this item may be appealed to the City Council within 10 calendar days.

5B. Request for Extension of Approval – 873-877 Ralston Avenue

CDD deMelo summarized the staff memorandum, noting that the City asked the applicant to delay their project because the City's plans for the City center area ask for something more than the planned single-story, 24,000 sq.ft. building. Staff believes that the three findings can be made and that the extension is warranted.

Commissioner Mayer asked how the applicant responded to the request for a delay. CDD de Melo stated that they have indicated to the City that their plans are ready to go; they have letters of intent from some tenants for the site, but are willing to take a break to allow for continuing discussions of the economic development efforts for the area.

Matt Jordan, one of the property owners, confirmed that the only reason they were there is because the City of Belmont asked them to take a pause for further discussions, and that they are eager to further discuss the development of the property.

CDD de Melo responded to Vice Chair Frautschi's question regarding the usual extension fee by stating that they gave the applicant a break on the fee.

MOTION: By Commissioner Wozniak, seconded by Commissioner Horton, to adopt a Resolution approving an Extension of a Conditional Use Permit, Grading Permit, and Design Review for 873-877 Ralston Avenue (Appl. No. 2006-0086) with the attached Exhibit A, Conditions of Approval.

Ayes: Wozniak, Horton, Mayer, Mercer, Frautschi, Parsons

Noes: None

Absent: McKenzie

Motion passed 6/0/1

Chair Parsons stated that this item may be appealed to the City Council within 10 calendar days.

5C. Request for Extension of Approval – 2007 Bishop Road

CDD deMelo summarized the staff memorandum, noting that there are no findings that apply to this extension request and that the statutes have not changed. Staff felt that the extension is warranted.

Dan McCloud, project surveyor, had nothing to add to the report.

Responding to Commissioner Wozniak's question as to whether the neighbors were noticed on this item, CDD de Melo stated that Public Hearing requirements do not apply but that the item was on the posted agenda and on the web.

MOTION: By Commissioner Horton, seconded by Vice Chair Frautschi, to adopt a Resolution approving an Extension of a Tentative Parcel Map for 2007 Bishop Road Avenue (Appl. No. 2004-0072) with the attached Exhibit A, Conditions of Approval.

Ayes: Horton, Frautschi, Mayer, Mercer, Wozniak, Parsons

Noes: None

Absent: McKenzie

Motion passed 6/0/1

Chair Parsons noted that this item may be appealed to the City Council within 10 calendar days.

6. PUBLIC HEARINGS

6A. PUBLIC HEARING – 1212 North Road

To consider a Single Family Design Review for a cut slope stabilization plan, including construction of a retaining wall ranging from five to fifteen feet in height within the side and rear portions of the subject property. A City Arborist Report has been prepared for the project which identifies a number of both protected and non-protected trees in the vicinity of the proposed cut slope stabilization plan & retaining wall construction area, and includes mitigation and protection measures for these trees. (Appl. No. 2007-0067)APN: 044-111-100; Zoned: R-1B (Single Family Residential)
CEQA Status: Recommended Categorical Exemption per Section 15303
Applicant: George Drew / Owner: Jay Singh / Project Planner: Carlos de Melo (650) 595-7440

CDD de Melo summarized the staff report, stating that staff believes all findings can be made in the affirmative. He reviewed overhead pdf files of the project and, together with CBO Nolfi, answered questions from the Commission. George Drew, Soil Engineering Construction, project manager and designer of the repair plan, also answered questions as appropriate.

At Chair Parsons' request, staff responded to concerns raised by the uphill neighbor, Winton Quock, in his letter dated 11/5/07. Regarding the 4 trees in question, CDD de Melo added that the City is willing to work with the applicant and the arborist to identify those concerns and have included Conditions of Approval to that effect. The City reserves the right to allow continual review by the City arborist to confirm the long-term stability of those trees.

Commissioners' questions regarding the issues of survey property markers, safety, encroachment, in-lieu fees, slope stabilization measures, etc., were addressed by staff, CA Zafferano and Mr. Drew.

Peter Riechert, attorney for the applicant, presented details about the background of the series of landslides that have occurred on his client's property and issues with a previous contractor hired to excavate the dirt. He assured the Commission that the Singhs are not trying to "sneak in a betterment of their yard" and that they have hired the best people to do what they have to do to protect their property as well as that of the adjoining neighbors. He made the following points:

- The only condition of approval that they have concerns about is related to the tree ordinance and the associated in-lieu fees under section 25.11.
- They cannot say that they can comply with a condition that impacts an adjoining neighbor's property; they

have no control over the proposed monitoring by the arborist as it is not their property and Dr. Quock has made it clear that he does not want them entering his property for any purpose.

- Regarding the issue of the surveyor's marker raised by Dr. Quock, he could not say whether the marker was eliminated at the time of the landslide or if the contractor who was doing the work impacted a marker. The Singh's knew nothing about it.
- With regard to a need for the survey itself, before they received Dr. Quock's letter the Singh's had already engaged D&H Survey to do a rear property line survey to confirm that the project is where they believed it should be. They had submitted a copy of that survey before the meeting, and they have used the very same surveyor that Mr. Quock used.
- He added that they know where the property line is and that there is a very small area at the top of the slope below the fence line that is impacted on Dr. Quock's property that they are repairing. He feels that they are mitigating damages and are securing Dr. Quock's slope and undertaking an enormous betterment of the Quock property.
- From looking at photos produced by Dr. Quock, he believed there is only one small tree that was actually on the Singh property that was removed in the process of the excavation and that it was below the size of the protected status.
- Regarding Dr. Quock's objection to the excavation work that was done to secure the top of the slope, he concurred with Mr. Drew that you cannot have soil and rocks that are loose above men that are working. They are talking about a few wheel barrels of soil that was dressed off the slope to make it reasonably safe for the workers to work below it. There was no deviation from the plans that the City had approved – it was done as part of the emergency process to secure the slope for the betterment of the Quock property as well as the Singh property.
- None of the trees that exist on the Quock property between the Singh property and the fence line are proposed to be removed under this project. There is no intent to do anything to destabilize the soil or to disrupt those trees as they now exist other than the fact that they are going to have a secure downhill slope from this area. The idea of putting another retaining wall above the existing slope is unnecessary. The design was reviewed by Cotton and Shires on behalf of the City and by their own soil engineer, Hartsog. It is a very safe design to secure the hill.
- There are issues with the Quock property by virtue of the way that they've handled their water—they cannot concentrate water on a hillside.
- Dr. Quock quoted the Hartsog report as stating that "future maintenance must be provided and continual observation..." That statement was with relation to the applicant's project for the wall – not Dr. Quock's trees and his slope. It is appropriate for the uphill property owner to act reasonably responsibly in controlling their water. That has not happened in the past – several landslides and soil instability and erosion have resulted.

Vice Chair Frautschi asked Mr. Riechert is there had been a legal suit that occurred in the 80's regarding these two properties. Mr. Riechert replied that there had been an exchange of threatening letters by another affected property owner involving a landslide that occurred on this hillside but, to the best of his knowledge, it never got beyond the letter-writing stage and that staff had been provided with a copy of those letters.

Vice Chair Frautschi reconfirmed with Mr. Reichert that, to his knowledge, there was no sort of settlement that the 1212 property was to maintain the systems that drained water from the upper two properties through this property to the street. Mr. Riechert added that if there had been a settlement there would be covenants running with the land – a recorded instrument. He stated that at one point after one of the landslides they had a temporary connection of pipes going down the hill to take stress off the hillside during one of the rainy seasons but, to his knowledge, there was never any formal agreement to pick up water from the Quock property onto the Singh property. He presented a photograph that was taken in 2000 of a pipe from the storm line that was emptying on the hill from the Quock property. He added that as part of the construction they had hooked up to the Quock water line to try to keep water off the slope during construction.

Vice Chair Frautschi asked what will happen after the construction is done. Mr. Riechert responded that Dr. Quock represented in the presence of Mr. Nolfi that he was going to take care of his own water, which has not happened yet and, to his knowledge, no plans have been submitted to the City to pick up his water and to deal with it.

CA Zafferano cautioned that past and current disputes between the Quocks and the Singhs about water are not germane to the issue before the Planning Commission.

Chair Parsons referred to an aerial photo showing a large Oak tree that was near the back door of the living room that appears to have been removed. He asked staff to verify if the tree was protected under the tree ordinance.

Chair Parsons opened the Public Hearing.

Winton Quock, resident of Winding Way, commented as follows:

- He was there to answer questions that had not been answered by the contractor.
- He asked Commissioners to look at the photos he had provided to document the property line, foliage and slope. He could not believe that Mr. Singh did not know where the property line was and added that Mr. Singh's contractor flattened the hillside back 30' creating the 30' ledge that now exists.
- He had a document of a law suit that was filed in Superior Court. in 1980 by his neighbor at 1210 North Street against mud that was sliding created by Mr. Singh's property on the right side, not the left side, and that damaged the retaining wall at 1210.
- He secured the services of B&H Surveying in 1996 to put markers on his property. The markers were there at that time.
- He stated that the initial plans approved in May recommended a survey, but it was never done. B&H told him that the Singhs asked for an estimate but never acquired their services. When he asked B&H to replace the survey marker back they said they could not do it because it would be floating in the air due to the excavation. B&H then said that their services had been acquired by Mr. Singh, after he approached the City regarding the property encroachment problem. The plans that were submitted in October show the property as it was before their meeting, with the big foliage coming down, which was removed through excavation. The difference between Photos A and B show that there was significant damage to his trees.
- He stated that he had asked B&H surveying if they are supervising the operation and was told that they had not been to the site in the last two months. He then approached Mr. Nolte, who could not produce a copy of the survey.
- He is not happy with what is going on. The excess cut that was done on October 20th was not approved and there is damage to his property.
- He is also concerned that on the right side of the property where the slide actually happened there is still loose dirt that is not part of the excavation. This is the dirt that fell down and created the problem at 1210 and 1212 North – it has not been addressed. This was the last slide on his property and unless he wants to totally cover the hillside another 15' or excavate another 15' that problem still exists.

Tom Finnayson, resident of Winding Way next door to Dr. Quock, was concerned about the stabilization plan in the project description on page 3 of the Staff Report, under Prior Actions. One of the main things discussed there is drainage system improvement. He is in favor of what is being done by Soil Engineering. The timeliness is helping make the hill safe, but he believes that the drainage issue is not being addressed in the overall scope: how the water from up above the property gets out to the street or how it flows down hill. He believes that the safest and best way for that hill to be the most stable is for water to be concentrated through a pipe from Point A to Point B. He added that for many years the concentrated water from up above actually flowed to a connected pipe all the way out to the street and at some point during the last 10 years the connection or that pipe became in a state of disrepair down on the hillside. It broke away and was not repaired. It was on the Singh's property in a position to allow them to constantly see concentrated water flow onto the hill and did not get repaired for many years. He urged the Commission to take the opportunity to address this problem.

MOTION BY: Vice Chair Frautschi, seconded by Commissioner Wozniak, to close the Public Hearing. Motion passed 6/0/1 by a show of hands, with Commissioner McKenzie absent.

Commissioner Horton asked if it is the obligation of a downhill property owner to provide drainage for uphill property. CA Zafferano responded that it is not.

Vice Chair Frautschi asked if the soil that was reportedly removed above the retaining wall will be replaced. Mr. Drew replied that it will be; the original cut was pretty vertical and there was a chance that big blocks would come off, so they found it necessary to cut back a wheelbarrow full of material at the top. It will be filled in and present a uniform slope from the native hill onto the artificial rock-looking hill.

Chair Parsons asked for confirmation that the design does not include drainage pipes running from the top of the wall. CDD de Melo responded that he believed the site plan indicates the location of drainage pipes but deferred to Mr. Drew in terms of whether they are illustrated in any of the cross sections. He added that

there are drainage improvements that are concentrated as part of this project through the swail drainpipe and then take their way along two portions along the side property line.

Referring to the temporary retaining wall sitting on top of a concrete wall in front of the house, Chair Parsons felt that they need to address that whole situation.

Chair Parsons and Commissioner Mercer concurred that it appears from the pictures that the issue of a protected Oak tree that towered over the house has been cut away and needs to be reconciled.

Commissioner Wozniak felt that they need to move forward and get the hill stabilized and wondered why they were even doing a Design Review at this point. She believed that the in-lieu fees and other relevant details should be discussed at a later date.

Commissioner Mayer agreed that the issue is to get the unfortunate mess cleaned up and that the other issues need to be resolved in a separate process. He was in favor of moving ahead.

Commissioner Horton concurred. She felt that the tremendously unfortunate situation was being rectified properly and in a timely manner, and that relationship between neighbors is for their attorneys to discuss.

Vice Chair Frautschi stated that they were doing the Design Review because regulations require it since a lot of dirt was removed. He felt that the drainage plan to take water out on both sides seemed like a balanced approach. Regarding Dr. Quock's concerns, Vice Chair Frautschi felt that 1) if the applicant has already done a survey he should provide it to Mr. Quock so that they would both have the same information, 2) Mr. Richter said that the soil above the retaining wall that was removed will be replaced, and 3) the proposed retaining wall looks very robust with a lot of steel and rebar and concrete. He concurred with Mr. Finnayson's point, and felt that all of the neighbors should cooperate in order to achieve the best solution to get the water from uphill downhill. He felt that the project that is before the Commission was a good design as far as taking care of the landslide problems and agreed that landscape and irrigation schemes did not need to be decided right away but he would like to see a landscape/irrigation plan eventually. It was evident to him from the photographs that there was a large tree in the back yard that was removed, probably without benefit of permit, and reminded that the City has a 3-1 replacement ratio in its Tree Ordinance. He supported Walter Levison's report and felt that the applicant is responsible for whatever in-lieu fee is determined.

For full disclosure, Vice Chair Frautschi reported that he had visited the site two weeks previously and met with Tom Finnayson and spoke with Dr. Quock on the telephone.

Commissioner Mercer felt that the Planning Commission would never have approved this project had they been given the time to incorporate some landscaping but now they need to get the wall built. She agreed that they should levy the full amount of fines or in-lieu fees for all of the trees, and that it is up to the owner to sort out whose fault it is, and if need be, pass on that expense to their original contactor; the City deserves full compensation for the loss of all of the trees. They also should require that some order restored to the front yard with a simple landscape plan, timeline and commitment to when that property will be restored to its original condition.

MOTION BY: Vice Chair Frautschi, seconded by Commissioner Mercer, to adopt a Resolution approving a Single-Family Design Review for 1212 North Road (Appl. No. 2007-0067), with Exhibit A, Conditions of Project Approval, with the addition of a complete Landscape/Irrigation Plan and the replacement and dressing of the soil above the upper retaining wall on the Quock's property.

Ayes: Frautschi, Mercer, Mayer, Wozniak, Parsons

Noes: Horton

Absent: McKenzie

Motion passed 5/1/1

Chair Parsons stated that this item may be appealed to the City Council within 10 calendar days.

CDD de Melo asked for clarification as to when the Landscape/Irrigation Plan should be back before the Commission and was told that that is his decision.

8. REPORTS, STUDIES AND UPDATES

CDD de Melo reported as follows:

A. U-Haul – 530 El Camino Real

This is a placeholder item relative to addressing the tree that is not doing well but is standing straight. Irrigation improvements have been made.

B. Motel 6 – 1101 Shoreway Road

Commissioners should expect a memo at a future Commission meeting relative to this issue, after staff has had a chance to discuss what has transpired.

C. 2996 Hallmark Drive

Landscaping is finally being installed, incorporating Planning Commission considerations that were brought forth in May. It should be fully completed by the middle of the following week at which time he will perform a final inspection.

D. NDNU (Koret) Athletic Field

Commissioners Horton and Mercer exited the room as Commissioner Horton lives within 500' of the subject property and Commissioner Mercer has Financial ties with the University.

CDD de Melo reviewed a staff memorandum he had prepared to summarize activities that have transpired since the Planning Commission last review of this item. Staff's conclusion was that the NDNU Athletic Field Task Force is making some progress and recommended that PCRC facilitation be continued before a formal CUP review by the Planning Commission is held. He added that no future meetings of the Task Force will be scheduled until after release for the public of the expanded acoustical study to be conducted during the week of November 12, and that field entry signage has been installed but that the signs need to be expanded to clearly delineate allowable weekend activity. NDNU had asked that the City's arborist do a quick review of the existing berm and planting area; and the arborist's assessment was prepared on October 15th and was included as part of this report. NDNU has indicated to the City that they will be looking to incorporate the recommendations of the arborist into future planting and improvements for the berm area and the area adjacent to the berm as it transitions to Ralston Avenue. Staff believed that the Task Force efforts should be allowed to run their course as moderated by the PCRC and recommended that the Commission continue the revocation hearing for the CUP to a later date.

CDD deMelo called attention to correspondence that has been received since the staff memorandum had been distributed: A letter and print-out from Dr. Seely, a letter from Risa and Sam Horowitz, and information from NDNU that consists of a spread sheet on their assessment of the issues related to code compliance from August 7th to the present time, as well as a cover letter from President Oblak. Response to questions from the Commission was as follows:

- The Task Force has come to the conclusion that there are issues with the language of the CUP, and he is hopeful that the Task Force can come to some conclusion on language of a better CUP that works for all.
- Release of the acoustic study will help matters.
- The fact that the Task Force is in effect does not discount that if there is a clear violation, it's a clear violation. If there are calls about a clear documented violation made to the Police Department or Code Enforcement, they are talking to the University about the activity but fines have not been levied. He believed that when personnel had responded to a request for service they found that the issues have been reasonably addressed.
- As requested by Commissioner Wozniak, he could provide a table prepared by the City similar to the one provided by NDNU.
- Condition 10 has not been appropriately addressed. The City accepted the January 27th letter that was provided to the City relative to the acoustical survey. The acoustical survey that is currently being expanded is going to go beyond the scope of what was required for the determination of optimal speaker placement. He believed that study that is going to be released Nov. 12-16 is going to provide assertions, recommendations and data that describe sound travel from the field and not necessarily the optimal placement of the speakers. Specific parameters for the acoustical engineer to study have not been

defined. They are hopeful that the study is prepared from an objective scientific perspective relative to sound travel from the field using data from real time game situations.

- Responding to concerns expressed by Vice Chair Frautschi, CA Zafferano interjected that the issue is relative to the wording of the CUP. His understanding is that the CUP requires that an acoustic study be done but it does not set any particular parameters – it doesn't talk about decibels. He understands that the Task Force has been engaged in the attempt, successful by some accounts and unsuccessful by others, to determine what those parameters will be and it was hoped by using the Task Force that it would narrow the issues ultimately coming before the Commission for resolution. It was hoped that in the best of all circumstances the Task Force would help both sides – NDNU and the neighbors – it would narrow rather than expand the issues. It is not clear whether that goal has been achieved but he believes that was the intent of the process, and then they can at least come back to the Commission with something that is more manageable in scope and that they are able to deal with in a revocation or modification hearing.
- The Task Force meetings are not taped but extensive notes are going to be prepared and sent to Task Force members to confirm comments made at the last meeting and will be prepared for meetings going forward. The Commission will eventually receive those minutes. CA Zafferano added for the record that the PCRC is a public process, it is not done behind closed doors, minutes are taken and will be submitted, and they will become part of the record that will be available if and when the Commission decides to hold a revocation or modification hearing.

Referring to the table prepared by NDNU, Commissioner Mayer was pleased to see a "remedy" column – the Commission needs to see objective information about an incident but concurred that the Commission also needs to see data produced by Code Enforcement.

Risa Horowitz, resident of Ralston Avenue, stated that she regrets that NDNU has not taken the necessary steps to prevent a potential revocation hearing and that the students will suffer if a revocation comes to pass. She felt that NDNU has found new ways to circumvent the CUP and that the frustrating work on the Task Force has proven to garner very few results. She learned that Menlo College has had similar problems and she contacted their athletic department to gain some insight into how they fixed their problem. She learned that there has to be top down respect from the university administration down; she feels this is sorely lacking in this case. Games are scheduled a year out and it is imperative to get things in writing. The sound of an air horn should last 1 second tops; she and her neighbors sometimes hear 5-second or longer sustained blasts. She feels that NDNU circumvents the conditions of the CUP by scheduling last-minute illegal games. They sometimes post these games and expect us to check their schedules daily. This gives us no opportunity to plan outdoor celebrations in our homes or gardens because of this short notice. She feels that Option 2 is the only acceptable option in the Arborist's report, and that several of the replaced trees have already been eaten by deer. She asked that the Commission require replacement plantings that would make a suitable visual screen. She stated that on October 20, 2007 there was an illegal lacrosse pickup game that followed a permissible soccer game. She said that NDNU claimed that some students hopped the fence; however, two of her neighbors said that Josh Dooley, NDNU Athletic Director, attended this game because they spoke to him on the field. Her concern is that if the Commission removes the threat of a revocation, NDNU will only return to their earlier bad behavior.

Jackie Horton, resident of Chula Vista within 500 feet of NDNU and the Koret field, went on record that she has no problems with the noise. She hears it, works at home some days, but she is one of the neighbors who finds the sound of students playing uplifting and it makes her feel like she is part of the community, as is the university. The field has been there as long as she has been in that house, 13 years, but was very underutilized for years. She believes it is a good thing that it is now being utilized. She thinks that it's a good thing. She is disappointed in NDNU for not fulfilling all of its obligations under the CUP, and would like to see them finish the work they said they would do. She would like them to work through the unresolved issues but under no circumstances is she interested in seeing the use of the field cut back or eliminated.

Ray Davis, resident of Chula Vista and a member of the Task Force, stated that he has been complaining about the excessive noise where he lives because it is a very directional thing. He stated that one can walk around the university and not hear a thing but it's as though on they are on the upper end of a megaphone where they live. He feels like the university is laughing at them. He had recorded a DVD of the sound, and asked that each Commissioner accept a copy. He believed they will be disgusted with the noises that are coming from the field.

Kristin Mercer, resident of Somerset Drive, made the following objective observations:

- She has not seen any reports or read anything yet that actually proves that this noise is in violation of the

Noise Ordinance.

- This is not the only school and these are not the only residents in Belmont who live adjacent to playing fields and hear the sounds of children playing. There are schools all over town which, as in the case of Notre Dame, were there long before the residents were there – when they bought those properties they knew there was a school.
- Residents on Wakefield Drive are subjected to noise completely unregulated Saturdays, Sundays and every day after school and at recess from Ralston Middle School. There are no measurements of any noise and she has never heard a complaint from those residents.
- She asked that everyone be objective. If we were to hold all of our elementary schools and high school imbedded in residential areas all over town to the same noise standards that some people think they need to hold Notre Dame to, then all of the sports programs at all of Belmont's schools would need to be shut down totally.

Josh Dooly, NDNU Athletic Director, gave an analysis of the last 5 years of scheduling of games at NDNU. In 2003, there were 23 at home men's and women's soccer games, and they were usually same day contests. 2004 was the first year of lacrosse and a total of 27 home games were played that year. The next year they were off campus due to the decomposing of the field. 18 games were played at home in 2006 – the field opened in the spring and only 4 home games of lacrosse were played. In 2007 there has been a total of 22 home games that are scheduled to be on the NDNU field for championship competition, plus an additional 10 games of non-championship competition. How they schedule events will be covered at the next Task Force meeting. Regarding the recent game that was said to be a violation of the CUP, the scheduled games are not violations of the CUP. The Task Force was sent an email of the non-traditional lacrosse games that were to be played, so there was some information given ahead of time about the scheduling of these contests. They are held to NCA standards – 22 to 23 championship games or 33 total, including non-championship games.

Evelyn Seely asked to give her time to Gordon Seely. CA Zafferano stated it is at the Chair's discretion whether or not to permit that. Chair Parsons agreed to allow the clock to be reset.

Gordon Seely, resident of Chula Vista, spoke as a neighbor severely and negatively impacted by the enhanced noise from Koret field, and urged that the Commission calendar a November 20 revocation hearing for the present CUP issued to NDNU. He related that City Manager Jack Crist had candidly commented that the CUP is a fundamentally flawed document. He made the point that the neighbors impacted by the stadium-like Koret Field were not consulted in the writing of the present CUP – there was no neighborhood outreach for them. He stated that their present problems are 3 - noise, noise, noise - noise that clearly violates the Noise Ordinance of the City of Belmont, noise that has no place in a residential neighborhood, and noise that the present CUP does nothing significantly to control. He pointed out that the Task Force has been involved for over 200 days with little progress toward a solution to the noise problem, posting signs does nothing to address the noise problem, and that for 30 days the University has failed to make the acoustical report public with the explanation that a scientific acoustical report requires extensive vetting by their attorney. He asked that the Commission revoke the existing CUP on November 20th and then draft a new document that "safeguards the fundamental right of neighbors..."

Commissioner Wozniak asked Mr. Dooly to return to the podium and queried him in detail about the number of times the field is used. His summary was that the field is used 33 days out of the year for games, not including practices, and added that the neighbors are also concerned about the noise generated from practices.

Vice Chair Frautschi asked for an explanation of the term "traditional" game. Mr. Dooly explained that soccer is traditionally a fall sport for college and is already scheduled for 2008. He does not have their spring schedule because that is a non-championship segment of the year when the team is allowed to meet in practice in a 45-day window and play up to 5 contests.

Chair Parsons recommended that the revocation hearing be rescheduled for after the first of the year, in order to be able to review the noise study, see the additional data from the City as requested by Commissioners, and to give the third party consultant a chance to facilitate a few more meetings.

Vice Chair Frautschi agreed that they cannot come to a solution until they have the answers to all of their questions. He needs to know what has been accomplished by the Task Force, as well as see the acoustical

report and the additional data from the City as requested by Commissioners, and felt that they have to know PCRC has done everything it can possibly do to work out the issues.

Commissioner Wozniak agreed that she could not make a decision about anything in two weeks. She needed more specific information on how many times the field is actually used during the year and a table like the one provided by NDNU filled out by the City with input from PCRC, the neighbors and NDNU so that they can see the full picture. She also felt that they are confusing the Noise Ordinance with the CUP, noting that inasmuch as the CUP refers to the Noise Ordinance it applies but otherwise the Noise Ordinance is a separate issue - what they would be doing in a revocation hearing is looking at what the permit says and how the applicant is adhering to the permit.

Commissioner Mayer concurred that he would not be in favor of holding the hearing as scheduled. He felt for the neighbors but also had sympathy for NDNU in that they have a difficult job trying to enforce the CUP. He felt that one of the prospects that might come out of the Task Force would be some agreements between the two sides as to how things could be changed to make it more workable and that that process needs to be allowed to continue.

After discussion it was agreed that the revocation hearing will be postponed to January 15th. Chair Parsons added for staff that if there are clear-cut violations there needs to be some action taken; they may have to go in and close down the field.

CDD de Melo stated that there is a strong possibility that there will not be a Tuesday, November 20th Planning Commission meeting since there were no projects of significance that were ready for that meeting. The next meeting would be Tuesday, December 4th.

9. CITY COUNCIL MEETING OF TUESDAY, NOVEMBER 27, 2007

Liaison: Commissioner Wozniak
Alternate Liaison: Commissioner Parsons

10. ADJOURNMENT:

The meeting was adjourned at 10:05 p.m. to a Regular Planning Commission Meeting on Tuesday, November 20, 2007, at 7:00 p.m. at Belmont City Hall.

Carlos de Melo
Planning Commission Secretary

CD's of Planning Commission Meetings are available in the
Community Development Department.

Please call (650) 595-7416 to schedule an appointment.